

**SICHENZIA ROSS FRIEDMAN FERENCE LLP**

Richard J. Babnick Jr., Esq. (RB-3374)  
61 Broadway, 32<sup>nd</sup> Floor  
New York, New York 10006  
Attorneys for Defendant Richard Wezner

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

|                                    |   |                                    |
|------------------------------------|---|------------------------------------|
| -----X                             |   |                                    |
| A-DEL CONSTRUCTION CORP., BARRY    | : | Civ No. 1:07-09324-DAB             |
| J. BAKER, and HARRY G. JOHNSON,    | : |                                    |
|                                    | : | <b>(ECF CASE)</b>                  |
| Plaintiffs,                        | : |                                    |
|                                    | : | <b>ANSWER AND</b>                  |
| vs.                                | : | <b><u>AFFIRMATIVE DEFENSES</u></b> |
|                                    | : |                                    |
| METROPOLITAN LIFE INSURANCE        | : |                                    |
| COMPANY, METROPOLITAN SECURITIES,  | : |                                    |
| INC., RICHARD WEZNER, PLR          | : |                                    |
| MANAGEMENT CO., LLC, PENNSYLVANIA  | : |                                    |
| BUSINESS GROUP, UNITED GROUP       | : |                                    |
| PROGRAMS, MEDICAL BENEFIT          | : |                                    |
| ADMINISTRATORS, MANULIFE FINANCIAL | : |                                    |
| CORPORATION, DONALD NEUHAUS,       | : |                                    |
| AMERICAN FINANCIAL SERVICES, INC., | : |                                    |
| and JOHN DOES(S) I-X,              | : |                                    |
|                                    | : |                                    |
| Defendants.                        | : |                                    |
| -----X                             |   |                                    |

Defendant Richard Wezner ("Defendant"), by and through his counsel, Sichenzia Ross Friedman Ference LLP, as and for his Answer to the Complaint of Plaintiffs A-Del Construction Corp., Barry J. Baker, and Harry G. Johnson (collectively "Plaintiffs"), hereby states as follows:

**THE PARTIES**

1. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 of the Complaint.
2. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2 of the Complaint.

3. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 3 of the Complaint.

4. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4 of the Complaint.

5. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5 of the Complaint.

6. Defendant admits the allegations in Paragraph 6 of the Complaint.

7. Defendant denies the allegations contained in Paragraph 7 of the Complaint, except admits the allegation that Pennsylvania Business Group has a principal place of business at 450 Plymouth Road, Plymouth Meeting, Pennsylvania 09462.

8. Defendant respectfully declines to respond to the allegations set forth in Paragraph 8 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

9. Defendant respectfully declines to respond to the allegations set forth in Paragraph 9 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

10. Defendant respectfully declines to respond to the allegations set forth in Paragraph 10 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

11. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11 of the Complaint.

12. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 12 of the Complaint.

13. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 13 of the Complaint.

14. Defendant respectfully declines to respond to the allegations set forth in Paragraph 14 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

15. Defendant respectfully declines to respond to the allegations set forth in Paragraph 15 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

#### **JURISDICTION AND VENUE**

16. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16 of the Complaint.

17. Defendant respectfully declines to respond to the allegations set forth in Paragraph 17 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

**FIRST COUNT**

18. Defendant respectfully declines to respond to the allegations set forth in Paragraph 18 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

19. Defendant respectfully declines to respond to the allegations set forth in Paragraph 19 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

20. Defendant respectfully declines to respond to the allegations set forth in Paragraph 20 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

21. Defendant respectfully declines to respond to the allegations set forth in Paragraph 21 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution, except admits the allegation that he was a MetLife registered representative.

22. Defendant respectfully declines to respond to the allegations set forth in Paragraph 22 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

23. Defendant respectfully declines to respond to the allegations set forth in Paragraph 23 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

24. Defendant respectfully declines to respond to the allegations set forth in Paragraph 24 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

25. Defendant respectfully declines to respond to the allegations set forth in Paragraph 25 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

26. Defendant respectfully declines to respond to the allegations set forth in Paragraph 26 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

27. Defendant respectfully declines to respond to the allegations set forth in Paragraph 27 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

28. Defendant respectfully declines to respond to the allegations set forth in Paragraph 28 of the Complaint on the grounds that it may violate his constitutional rights

pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

29. Defendant respectfully declines to respond to the allegations set forth in Paragraph 29 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

### **SECOND COUNT**

30. Defendant repeats, reiterates, and realleges his responses to the aforementioned paragraphs with the same force and effect as if set forth at length herein.

31. Defendant respectfully declines to respond to the allegations set forth in Paragraph 31 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

32. Defendant respectfully declines to respond to the allegations set forth in Paragraph 32 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

33. Defendant respectfully declines to respond to the allegations set forth in Paragraph 33 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

34. Defendant respectfully declines to respond to the allegations set forth in Paragraph 34 of the Complaint on the grounds that it may violate his constitutional rights

pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

35. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35 of the Complaint.

36. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36 of the Complaint.

37. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37 of the Complaint.

38. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 38 of the Complaint.

39. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39 of the Complaint.

40. Defendant respectfully declines to respond to the allegations set forth in Paragraph 40 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

41. Defendant respectfully declines to respond to the allegations set forth in Paragraph 41 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

42. Defendant respectfully declines to respond to the allegations set forth in Paragraph 42 of the Complaint on the grounds that it may violate his constitutional rights

pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

43. Defendant respectfully declines to respond to the allegations set forth in Paragraph 43 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

### **THIRD COUNT**

44. Defendant repeats, reiterates, and realleges his responses to the aforementioned paragraphs with the same force and effect as if set forth at length herein.

45. Defendant respectfully declines to respond to the allegations set forth in Paragraph 45 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

46. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 46 of the Complaint.

47. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 47 of the Complaint.

### **FOURTH COUNT**

48. Defendant repeats, reiterates, and realleges his responses to the aforementioned paragraphs with the same force and effect as if set forth at length herein.

49. Defendant respectfully declines to respond to the allegations set forth in Paragraph 49 of the Complaint on the grounds that it may violate his constitutional rights



pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

50. Defendant respectfully declines to respond to the allegations set forth in Paragraph 50 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

51. Defendant respectfully declines to respond to the allegations set forth in Paragraph 51 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

52. Defendant respectfully declines to respond to the allegations set forth in Paragraph 52 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

53. Defendant respectfully declines to respond to the allegations set forth in Paragraph 53 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

54. Defendant respectfully declines to respond to the allegations set forth in Paragraph 54 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

55. Defendant respectfully declines to respond to the allegations set forth in Paragraph 55 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

56. Defendant respectfully declines to respond to the allegations set forth in Paragraph 56 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

57. Defendant respectfully declines to respond to the allegations set forth in Paragraph 57 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

#### **FIFTH COUNT**

58. Defendant repeats, reiterates, and realleges his responses to the aforementioned paragraphs with the same force and effect as if set forth at length herein.

59. Defendant respectfully declines to respond to the allegations set forth in Paragraph 59 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

60. Defendant respectfully declines to respond to the allegations set forth in Paragraph 60 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

61. Defendant respectfully declines to respond to the allegations set forth in Paragraph 61 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

62. Defendant respectfully declines to respond to the allegations set forth in Paragraph 62 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

63. Defendant respectfully declines to respond to the allegations set forth in Paragraph 63 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

64. Defendant respectfully declines to respond to the allegations set forth in Paragraph 64 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

65. Defendant respectfully declines to respond to the allegations set forth in Paragraph 65 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

66. Defendant respectfully declines to respond to the allegations set forth in Paragraph 66 of the Complaint on the grounds that it may violate his constitutional rights

pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

67. Defendant respectfully declines to respond to the allegations set forth in Paragraph 67 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

68. Defendant respectfully declines to respond to the allegations set forth in Paragraph 68 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

69. Defendant respectfully declines to respond to the allegations set forth in Paragraph 69 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

#### **SIXTH COUNT**

70. Defendant repeats, reiterates, and realleges his responses to the aforementioned paragraphs with the same force and effect as if set forth at length herein.

71. Defendant respectfully declines to respond to the allegations set forth in Paragraph 71 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

72. Defendant respectfully declines to respond to the allegations set forth in Paragraph 72 of the Complaint on the grounds that it may violate his constitutional rights

pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

73. Defendant respectfully declines to respond to the allegations set forth in Paragraph 73 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

74. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 74 of the Complaint.

75. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 75 of the Complaint.

76. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 76 of the Complaint.

77. Defendant respectfully declines to respond to the allegations set forth in Paragraph 77 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

78. Defendant respectfully declines to respond to the allegations set forth in Paragraph 78 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

#### **SEVENTH COUNT**

79. Defendant repeats, reiterates, and realleges his responses to the aforementioned paragraphs with the same force and effect as if set forth at length herein.

80. Defendant respectfully declines to respond to the allegations set forth in Paragraph 80 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

81. Defendant respectfully declines to respond to the allegations set forth in Paragraph 81 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

82. Defendant respectfully declines to respond to the allegations set forth in Paragraph 82 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

83. Defendant respectfully declines to respond to the allegations set forth in Paragraph 83 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

84. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 84 of the Complaint.

85. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 85 of the Complaint.

86. Defendant respectfully declines to respond to the allegations set forth in Paragraph 86 of the Complaint on the grounds that it may violate his constitutional rights

pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

87. Defendant respectfully declines to respond to the allegations set forth in Paragraph 87 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

88. Defendant respectfully declines to respond to the allegations set forth in Paragraph 88 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

89. Defendant respectfully declines to respond to the allegations set forth in Paragraph 89 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

#### **EIGHTH COUNT**

90. Defendant repeats, reiterates, and realleges his responses to the aforementioned paragraphs with the same force and effect as if set forth at length herein.

91. Defendant respectfully declines to respond to the allegations set forth in Paragraph 91 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

92. Defendant respectfully declines to respond to the allegations set forth in Paragraph 92 of the Complaint on the grounds that it may violate his constitutional rights

pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

93. Defendant respectfully declines to respond to the allegations set forth in Paragraph 93 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

94. Defendant respectfully declines to respond to the allegations set forth in Paragraph 94 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

95. Defendant respectfully declines to respond to the allegations set forth in Paragraph 95 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

96. Defendant respectfully declines to respond to the allegations set forth in Paragraph 96 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

97. Defendant respectfully declines to respond to the allegations set forth in Paragraph 97 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.



98. Defendant respectfully declines to respond to the allegations set forth in Paragraph 98 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

99. Defendant respectfully declines to respond to the allegations set forth in Paragraph 99 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

100. Defendant respectfully declines to respond to the allegations set forth in Paragraph 100 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

101. Defendant respectfully declines to respond to the allegations set forth in Paragraph 101 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

102. Defendant respectfully declines to respond to the allegations set forth in Paragraph 102 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

103. Defendant respectfully declines to respond to the allegations set forth in Paragraph 103 of the Complaint on the grounds that it may violate his constitutional rights

pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

104. Defendant respectfully declines to respond to the allegations set forth in Paragraph 104 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

105. Defendant respectfully declines to respond to the allegations set forth in Paragraph 105 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

106. Defendant respectfully declines to respond to the allegations set forth in Paragraph 106 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

107. Defendant respectfully declines to respond to the allegations set forth in Paragraph 107 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

108. Defendant respectfully declines to respond to the allegations set forth in Paragraph 108 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

109. Defendant respectfully declines to respond to the allegations set forth in Paragraph 109 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

110. Defendant respectfully declines to respond to the allegations set forth in Paragraph 110 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

111. The allegations of Paragraph 111 contain only legal conclusions to which no response is required.

112. Defendant respectfully declines to respond to the allegations set forth in Paragraph 112 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

113. Defendant respectfully declines to respond to the allegations set forth in Paragraph 113 of the Complaint on the grounds that it may violate his constitutional rights pursuant to the Fifth Amendment to the United States Constitution and Article 1, Section 6 of the New York Constitution.

**FIRST AFFIRMATIVE DEFENSE**

The Complaint fails, in whole or in part, to state a claim against Defendant upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

Plaintiffs have failed to allege fraud with particularity as required by Rule 9(b) of the Federal Rules of Civil Procedure.

**THIRD AFFIRMATIVE DEFENSE**

The claims against Defendant are barred by the applicable statutes of limitations.

**FOURTH AFFIRMATIVE DEFENSE**

The relief sought in the Complaint is contrary to the public policy of the State of New York and the United States.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims for punitive damages violate Defendant's procedural Due Process rights under the Fourteenth Amendment to the United States Constitution and the Constitution of the State of New York.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiffs' claims for punitive damages violate Defendant's rights to protection from excess fines and penalties as provided by the Eighth Amendment to the United States Constitution as well as his rights to substantive due process under the Fifth and Fourteenth Amendments to the United States Constitution.

**SEVENTH AFFIRMATIVE DEFENSE**

The assessment of punitive damages in this action would impinge on the Commerce Clause of Article 1, Section 8 of the United States Constitution as it would constitute an undue and unreasonable burden on interstate commerce.

**EIGHTH AFFIRMATIVE DEFENSE**

Plaintiffs are not entitled to punitive damages in the instant case as the conduct alleged does not rise to the level of malice as is required under New York law.

**WHEREFORE**, Defendant demands judgment:

1. Dismissing the Complaint with prejudice; and
2. Such other relief as this Court may deem just and proper.

Dated: August 21, 2008

Respectfully submitted,

\_\_\_\_\_  
Richard J. Babnick Jr., Esq. (RB-3374)  
SICHENZIA ROSS FRIEDMAN FERENCE LLP  
61 Broadway, 32<sup>nd</sup> Floor  
New York, New York 10006  
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Attorneys for Defendant Richard Wezner

**SICHENZIA ROSS FRIEDMAN FERENCE LLP**

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 New York, New York 10006  
 Attorneys for Defendant Richard Wezner

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF NEW YORK

|                                    |   |                        |
|------------------------------------|---|------------------------|
| -----X                             |   |                        |
| A-DEL CONSTRUCTION CORP., BARRY    | : | Civ No. 1:07-09324-DAB |
| J. BAKER, and HARRY G. JOHNSON,    | : |                        |
|                                    | : | <b>(ECF CASE)</b>      |
| Plaintiffs,                        | : |                        |
|                                    | : | <b>AFFIRMATION OF</b>  |
| vs.                                | : | <b><u>SERVICE</u></b>  |
|                                    | : |                        |
| METROPOLITAN LIFE INSURANCE        | : |                        |
| COMPANY, METROPOLITAN SECURITIES,  | : |                        |
| INC., RICHARD WEZNER, PLR          | : |                        |
| MANAGEMENT CO., LLC, PENNSYLVANIA  | : |                        |
| BUSINESS GROUP, UNITED GROUP       | : |                        |
| PROGRAMS, MEDICAL BENEFIT          | : |                        |
| ADMINISTRATORS, MANULIFE FINANCIAL | : |                        |
| CORPORATION, DONALD NEUHAUS,       | : |                        |
| AMERICAN FINANCIAL SERVICES, INC., | : |                        |
| and JOHN DOES(S) I-X,              | : |                        |
|                                    | : |                        |
| Defendants.                        | : |                        |
| -----X                             |   |                        |

RICHARD J. BABNICK JR, an attorney duly admitted to the practice of law before the Courts of the State of New York, hereby affirms under the penalties of perjury that: I am not a party to the action, am over 18 years of age and reside in Clifton, New Jersey. On August 21, 2008, I caused to be served a copy of Defendant Richard Wezner's Answer to the Complaint and Answer to the Cross-Claims of Co-Defendants Metropolitan Life Insurance Company, Metropolitan Securities, Inc., and Pennsylvania Business Group, by mailing same in a sealed envelope, with postage prepaid thereon, in an official depository of the United States Postal Service

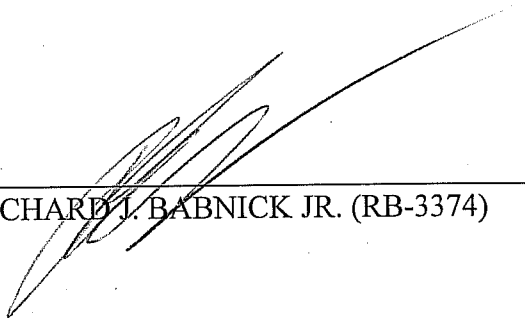
within the State of New York to the following Counsel that have appeared in the case:

David A. Ward, Esq.  
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101 Park Avenue  
New York, New York 10178

Dated: August 21, 2008



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RICHARD J. BABNICK JR. (RB-3374)